



May 21, 1999

Mr. C. Robert Heath
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.
1700 Frost Bank Building
816 Congress Avenue
Austin, Texas 78701-2443

OR99-1424

Dear Mr. Heath:

You have asked whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125905.

The Austin Independent School District (the "district") received a request for information about employees. You seek to withhold, under sections 552.024 and 552.117 of the Government Code, the addresses and social security numbers of peace officers and of employees who have opted in writing to withhold this information. You also seek to withhold, under section 552.102 of the Government Code, information about membership due payments that are paid by the employees rather than the district.

Section 552.117 provides that information is excepted from disclosure if it relates to a peace officer's home address, home telephone number, social security number, or reveals whether the peace officer has family members. *See* Open Records Decision No. 622 (section 552.117 excepts from disclosure former home addresses and former home telephone numbers). We agree the district must withhold the home addresses and social security numbers of peace officers as provided by section 552.117.

Sections 552.024 and 552.117 provide that a public employee or official can opt in writing to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. We agree you must withhold the home addresses and social security numbers of the other employees who have opted in writing to withhold this information if, as of the time of the request for the information, the employee had elected to keep the information private.¹ Open Records Decision Nos. 530 at 5 (1989), 482 at 4 (1987), 455 (1987). As to the social security numbers of other employees, we note that social security numbers that were obtained or

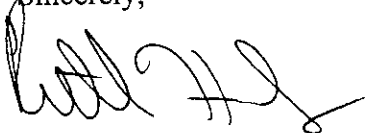
¹We agree that section 552.117 protects from disclosure the portions of employee social security numbers requested.

maintained by a governmental body pursuant to any provision of law, enacted on or after October 1, 1990, are confidential pursuant to section 405(c)(2)(C)(viii) of title 42 of the United States Code.

The test to determine whether information is private and excepted from disclosure under common-law privacy as encompassed by section 552.102 of the Government Code is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.-Austin 1983, writ ref'd n.r.e.). Information about employees that reveals personal financial information generally is excepted from public disclosure under the common-law privacy test, except to the extent the information reflects a transaction between the employee and the public. Open Records Decision Nos. 600 (1992) (information about public employee's participation in a group insurance program, retirement benefits beneficiaries, tax exempt reimbursement accounts, and direct deposit), 545 (1990) (information about a public employee's participation in a deferred compensation plan). If the membership dues at issue are paid by the employees rather than the district, this information is protected from disclosure under section 552.102.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 125905

cc: Mr. Louis Malfaro
Austin Federation of Teachers
3000 South IH-35, Suite 175
Austin, Texas 78704